

Burma¹

FINANCING OF EDUCATIONAL AND CULTURAL PROGRAM

Agreement signed at Rangoon December 22, 1947

Entered into force December 22, 1947

Article 5 amended by agreement of December 18, 1948, and May 12, 1949; ² title, preamble, and articles 1, 3, and 11 amended by agreement of August 29, 1961 ³

62 Stat. 1814; Treaties and Other
International Acts Series 1685

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF BURMA FOR THE USE OF FUNDS MADE AVAILABLE IN ACCORDANCE WITH THE AGREEMENT REGARDING SETTLEMENT FOR SURPLUS PROPERTY SIGNED AT LONDON ON FEBRUARY 28, 1947 ⁴

The Government of the United States of America and the Government of Burma;

Desiring to promote further mutual understanding between the peoples of the United States of America and Burma by a wider exchange of knowledge and professional talents through educational contacts;

Considering that Section 32(b) of the United States Surplus Property Act of 1944, as amended (Public Law No. 584, 79th Congress; 60 Stat. 754), provides that the Secretary of State of the United States of America may enter into an agreement with any foreign government for the use of currencies or credits for currencies of such foreign government acquired as a result of surplus property disposals for certain educational activities; and

Considering that under the provisions of the agreement between the Gov-

¹ Certain agreements between the United States and the United Kingdom were, or are, applicable to Burma. See *post*, UNITED KINGDOM.

² TIAS 1976, *post*, p. 1119.

³ 12 UST 1195; TIAS 4834.

⁴ For amendments of title and preamble, see 12 UST 1195; TIAS 4834.

ernment of the United States of America and the Government of Burma regarding the settlement for surplus property signed at London on February 28, 1947,⁵ it is provided that to the extent that the Government of the United States of America wishes to receive Burma rupees for the payment of any or all expenditures of the Government of the United States of America or its agencies in Burma, including rupees for the acquisition of real property in Burma to be mutually agreed upon, and for improvements and furnishings for property of the Government of the United States of America in Burma, and for cultural and educational programs to be mutually agreed upon, or, to the extent that the Government of the United States of America wishes that rupees for cultural and educational programs so agreed be provided to a foundation or other independent organization, the Government of the United States of America may at any time or times request the Government of Burma, and the Government of Burma agrees to provide to the Government of the United States of America, its agencies or designees, at such time or times, as so requested, rupees in any amount, computed in accordance with Paragraph 11 of the agreement regarding settlement for surplus property of February 28, 1947, not in excess of the then unpaid portion of the total principal amount, plus interest then due and payable under the terms of the above-mentioned agreement of February 28, 1947, within limits to be mutually agreed,

Have agreed as follows:

ARTICLE 1⁶

There shall be established a foundation to be known as the United States Educational Foundation in Burma (hereinafter designated "the Foundation"), which shall be recognized by the Government of the United States of America and the Government of Burma as an organization created and established to facilitate the administration of the educational program to be financed by funds made available by the Government of Burma under the terms of the present agreement. Except as provided in Article 3 hereof the Foundation shall be exempt from the domestic and local laws of the United States of America and Burma as they relate to the use and expenditure of currencies and credits for currencies for the purposes set forth in the present agreement.

The funds made available by the Government of Burma shall be used by the Foundation for the purpose, as set forth in Section 32(b) of the United States Surplus Property Act of 1944, as amended, of

(1) financing studies, research, instruction, and other educational activities of or for citizens of the United States of America in schools and institutions of higher learning located in Burma, or of the citizens of Burma

⁵ Not printed.

⁶ For an amendment to art. 1, see 12 UST 1195; TIAS 4834.

in United States schools and institutions of higher learning located outside the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands, including payment for transportation, tuition, maintenance, and other expenses incident to scholastic activities; or

(2) furnishing transportation for citizens of Burma who desire to attend United States schools and institutions of higher learning in the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands and whose attendance will not deprive citizens of the United States of America of an opportunity to attend such schools and institutions.

ARTICLE 2

In furtherance of the aforementioned purposes, the Foundation may, subject to the provisions of Article 10 of the present agreement, exercise all powers necessary to the carrying out of the purposes of the present agreement, including the following:

(1) Receive funds.

(2) Open and operate bank accounts in the name of the Foundation in a depository or depositories to be designated by the Secretary of State of the United States of America.

(3) Disburse funds and make grants and advances of funds for the authorized purposes of the Foundation.

(4) Acquire, hold, and dispose of property in the name of the Foundation as the Board of Directors of the Foundation may consider necessary or desirable, provided however, that the acquisition of any real property shall be subject to the prior approval of the Secretary of State of the United States of America.

(5) Plan, adopt, and carry out programs, in accordance with the purposes of section 32 (b) of the United States Surplus Property Act of 1944, as amended, and the purposes of the present agreement.

(6) Recommend to the Board of Foreign Scholarships, provided for in the United States Surplus Property Act of 1944, as amended, students, professors, research scholars, resident in Burma, and institutions of Burma qualified to participate in the program in accordance with the aforesaid Act.

(7) Recommend to the aforesaid Board of Foreign Scholarships such qualifications for the selection of participants in the programs as it may deem necessary for achieving the purpose and objectives of the Foundation.

(8) Provide for periodic audits of the accounts of the Foundation as directed by auditors selected by the Secretary of State of the United States of America.

(9) Engage administrative and clerical staff and fix the salaries and wages thereof.

ARTICLE 3⁷

All expenditures by the Foundation shall be made pursuant to an annual budget to be approved by the Secretary of State of the United States of America, pursuant to such regulations as he may prescribe. The Foundation shall prepare the budget and present it to the Government of Burma in order that comments, if any, of the Government of Burma, may be considered by the Secretary of State prior to final approval of the budget.

ARTICLE 4

The Foundation shall not enter into any commitments or create any obligation which shall bind the Foundation in excess of the funds actually on hand nor acquire, hold or dispose of property except for the purposes authorized in the present agreement.

ARTICLE 5⁸

The management and direction of the affairs of the Foundation shall be vested in a Board of Directors consisting of eight Directors (hereinafter designated the "Board").

The principal officer in charge of the diplomatic mission of the United States of America to Burma (hereinafter designated "Chief of Mission") shall be Honorary Chairman of the Board. He shall have the power of appointment and removal of members of the Board at his discretion. The members of the Board shall be as follows: (a) the chief Public Affairs Officer or such other officer of the United States diplomatic mission, as the Chief of Mission may designate, Chairman; (b) two other members of the Embassy staff, one of whom shall serve as treasurer; (c) two citizens of the United States of America, who may be representatives of American business, professional or educational interests in Burma or members of the staff of the United States diplomatic mission; (d) three citizens of Burma, one of them to represent the University of Rangoon, one to represent the Government of Burma in the Ministry of Education, and one of them, not an official of the Government of Burma, to represent unofficial Burmese educational activities.

The five members specified in (c) and (d) of the last preceding paragraph shall be resident in Burma and shall serve from the time of their appointment until the succeeding December 31 next following such appointment. They shall be eligible for reappointment. The United States members shall be designated by the Chief of Mission; the Burmese members by the Chief of Mission from a list of names submitted by the Government of Burma. Vacancies by

⁷ For an amendment to art. 3, see 12 UST 1195; TIAS 4834.

⁸ For an amendment to art. 5, see TIAS 1976, *post*, p. 1119.

reason of resignations, transfers of residence outside of Burma, expiration of term of service, or otherwise shall be filled in accordance with this procedure.

The Directors shall serve without compensation, but the Foundation is authorized to pay the necessary expenses of the Directors in attending meetings of the Board.

ARTICLE 6

The Board shall adopt such by-laws and appoint such committees as it shall deem necessary for the conduct of the affairs of the Foundation. A copy of the by-laws and a list of the members of the committees appointed by the Board shall be forwarded to the Government of Burma and to the Secretary of State.

ARTICLE 7

Reports as directed by the Secretary of State of the United States of America shall be made annually on the activities of the Foundation to the Secretary of State of the United States of America and the Government of Burma.

ARTICLE 8

The principal office of the Foundation shall be in the capital city of Burma, but meetings of the Board and any of its committees may be held in such other places as the Board may from time to time determine, and the activities of any of the Foundation's officers or staff may be carried on at such places as may be approved by the Board.

ARTICLE 9

The Board may appoint an Executive Officer and determine his salary and term of service, provided, however, that in the event it is found to be impracticable for the Board to secure an appointee acceptable to the Chairman, the Government of the United States of America may provide an Executive Officer and such assistants as may be deemed necessary to ensure the effective operation of the program. The Executive Officer shall be responsible for the direction and supervision of the Board's programs and activities in accordance with the Board's resolutions and directives. In his absence or disability, the Board may appoint a substitute for such time as it deems necessary or desirable.

ARTICLE 10

The decisions of the Board in all matters may, in the discretion of the Secretary of State of the United States of America, be subject to his review. Any decision affecting the interests of Burmese students, professors, or research scholars shall be communicated to the Government of Burma before it is sent for review to the Secretary of State.

ARTICLE 11⁹

The Government of Burma shall, within 30 days of the date of the signature of the present agreement, deposit with the Treasurer of the United States of America an amount of currency of the Government of Burma equivalent to \$200,000 (United States currency). On January 1, 1949 and on each succeeding January 1 thereafter, the Government of Burma shall similarly deposit an amount of currency of the Government of Burma equivalent to \$200,000 (United States currency) until an aggregate amount of the currency of the Government of Burma equivalent to \$3,000,000 (United States currency) shall have been deposited. The deposits specified above shall be made in partial fulfillment of the statement of intent of the Government of the United States of America in paragraph 9 of the Surplus Property Agreement signed at London on February 28, 1947, and the Government of the United States of America declares that it is its intention to request the Government of Burma to provide, by amendment to the present agreement, additional deposits which will increase the aggregate amounts deposited to a minimum of \$4,000,000 (United States equivalent), provided that no additional deposit will be requested which is in excess of the unpaid portion of the total principal amount, plus interest, then due and payable under the terms of the credit agreement.

The rate of exchange between currency of the Government of Burma and United States currency to be used in determining the amount of currency of the Government of Burma to be so deposited shall be at the par value between Burmese rupees and United States dollars established in conformity with procedures of the International Monetary Fund or if no such par value exists at the rate most favorable to the Government of the United States of America used by the Government of Burma for any official transactions at the time of the deposit.

The Government of Burma shall guarantee the United States of America against exchange loss resulting from any alteration in the above rate of exchange or from any currency conversion with respect to any currency of the Burmese Government received hereunder and held by the treasurer of the United States of America or by the Foundation by undertaking to pay to the Government of the United States of America such amounts of currency of the Government of Burma to maintain the dollar value of such currency of the Government of Burma as is held by the treasurer of the United States or the Foundation. The purpose of this provision is to assure that the operations of the Foundation will not be interrupted or restricted by any deficits resulting from alterations in the above rate of exchange or from currency conversions.

⁹ For an amendment to art. 11, see 12 UST 1195; TIAS 4834.

The Secretary of State of the United States of America will make available to the Foundation Burmese Currency in such amounts as may be required by the Foundation, but in no event in excess of the budgetary limitation established pursuant to Article 3 of the present agreement.

ARTICLE 12

Furniture, equipment, supplies, and any other articles intended for the official use of the Foundation shall be exempt in the territory of Burma from customs duties, excises, and surtaxes, and every other form of taxation.

All funds and other property used for the purposes of the Foundation, and all official acts of the Foundation within the scope of its purposes shall likewise be exempt from taxation of every kind in the territory of Burma.

ARTICLE 13

The Government of Burma shall extend to citizens of the United States of America residing in Burma and engaged in educational activities under the auspices of the Foundation such privileges with respect to exemption from taxation, and other burdens affecting the entry, travel, and residence of such persons as are extended to Burmese citizens residing in the United States of America engaged in similar activities.

ARTICLE 14

Wherever, in the present agreement, the term "Secretary of State of the United States of America" is used, it shall be understood to mean the Secretary of State of the United States of America or any officer or employee of the Government of the United States of America designated by him to act in his behalf.

ARTICLE 15

(1) The present agreement may be amended by the exchange of diplomatic notes between the Government of the United States of America and the Government of Burma.

(2) If any difference arises in regard to the interpretation of any article of or expression in this agreement, the parties to the agreement shall settle such difference by direct negotiations through diplomatic channels.

ARTICLE 16

The present agreement shall come into force upon the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present agreement.

DONE at Rangoon in duplicate, in the English language, this 22nd day of December, 1947.

For the Government of the United States of America:

R. AUSTIN ACLY

Charge d'Affaires ad interim

For the Government of Burma:

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Counsellor for Foreign Affairs